



## State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS LOCAL 1837

Complainant

v.

LITTLETON WATER & LIGHT  
DEPARTMENT

Respondent

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CASE NO. M-0694

DECISION NO. 94-03

### APPEARANCES

#### Representing Littleton Water & Light Dept.:

Robert Tawney, Negotiator

#### Representing Local 1837:

William Tarallo, IBEW, Local 1837

#### Also appearing:

Don Craigie, Littleton Water & Light  
Sara Marvin, Littleton Water & Light  
Mark Heath, Littleton Water & Light  
J.D. Merrigan, IBEW Local 1837

### BACKGROUND

The International Brotherhood of Electrical Workers Local 1837 (Union) filed a petition for certification on December 14, 1993 for seven job titles within the Littleton Water & Light Department. They are: water system operator (2), line workers (4), technician (1), customer service (2), data processor manager (1), inventory purchasing coordinator (1) and meter worker (1). The Board of Commissioners of the Littleton Water & Light Department filed its response on December 27, 1993 seeking to exclude the positions of data processing manager and customer service representative on the basis of confidentiality. Further, it objected to the petition, stating that the petitioner made no effort to reach agreement on

the proposed bargaining unit and that the timing of the petition was improper. The matter was heard by the undersigned hearing officer on January 11, 1994. The record was held open for job descriptions of positions proposed for the bargaining unit which were received from management on January 26, 1994. Comments from the union were received on February 3, 1994.

#### FINDINGS OF FACT

1. The Littleton Water and Light Department is a "public employer" within the meaning of RSA 273-A:1 X. It employs workers in the operations of its utility systems.
2. RSA 273-A:3 II (a) requires that any party desiring to bargain shall serve written notice of the intention at least 120 days before the budget submission date. RSA 273-A:3 IV requires a public employer to record its budget submission date with the Board. Commissioner Craigie stated that the budget submission date given on the petition, February 1, 1994, is in error and that the Water and Light Department has no budget submission date. The budget is always voted on the second Monday in January with final submissions made in early December.
3. The employees of the Littleton Water and Light Department include both inside office workers and outside field workers. Both categories are included in the proposed bargaining unit. The two challenged positions of data processing manager and customer service representative are office positions.
4. Office workers and field workers observe the same yearly calendar, take vacations and holidays and receive benefits under the same policies set by the commissioners. The field workers have scheduled overtime which is not available to the office workers. However, the office workers may be called in to dispatch in cases of emergency though this rarely happens. The field workers advance through a step system and the office workers advance by promotion only. All employees work within the same organization performing different aspects of the organizational tasks of administration, installation, maintenance and repair while delivering and charging for utility services.
5. The office workers and field workers are in frequent communication in person and via radio system. The foreman or an office worker, most likely a customer service representative, dispatches the field workers to their various sites. The office worker does not have

authority to order work activities but provides information to assist in decision making. Frequently an office worker facilitates communication between two different work crews which must coordinate activities. No single office person handles all the calls, though the customer service representative handles customer complaints. The Customer Service Representative relay the complaints to the foreman if more than a routine response is needed. The data processing manager occasionally dispatches information to the field crews. The witness stated and the job description agrees that the main duties of the data processing manager include insuring efficient use of the computer system, preparing payroll, keeping other records. She testified that, in the absence of a comptroller, she has access to the personnel files along with the superintendent, the office manager and the foreman. She places documents in files and retrieves files.

6. The data processing manager does not consider herself a confidential employee at all. Mr. Craigie testified that he believes the data processing manager serves as a gatekeeper to confidential personnel files.
7. The customer service representative has responsibility for maintaining good customer relations, communicating customer needs to crews and other non-confidential duties. That position also performs transcription of records of commissioners' meetings, legal matters and negotiations. Commissioner Craigie testified that one customer service representative acts in that role doing correspondence and other typing for the superintendent. That position now handles employee matters and does any typing of sensitive documents dealing with policy. There is presently no union in operation within the Littleton Water and Light Department. Presently, one customer service position is vacant and is being advertised in the local paper.
8. There is no dispute as to the fact that Mr. William Tarallo, business manager of Local 1837, visited Superintendent Betz prior to the submission of the petition for certification. A discussion of the various positions the Union wished included in the bargaining unit took place. The visit occurred on the day that the petition was submitted, December 14, 1993. The petition indicates that agreement had not been reached between the parties. Mr. Tarallo indicated that the position of office manager and foreman were excluded at the request of Mr. Betz.

DECISION AND ORDER

Prior to the date of this decision, the budget of the Littleton Water and Light Department was scheduled to have been approved. There was no opportunity to negotiate prior to adoption of the budget and no showing of prejudice to the employer has been made. No harm has occurred as a result of the timing of the petition for certification. The public employer is required to adopt a budget submission date in compliance with the above cited statute.

RSA 273-A:8 governs the certification of bargaining units. Therein, the legislature has stated that an appropriate bargaining unit will share a community of interest in working conditions and has set down criteria for determining if such a community of interest exists. Excluded from bargaining unit membership are employees whose duties imply a confidential relationship to the employer. RSA 273-A:1 IX (c).

The data processing manager does have access to personnel files but only for routine filings and not to provide information on labor relations matters and similar policy negotiations. Confidentiality does not presently exist as a reason to exclude this position from the proposed bargaining unit.

The customer service representative position which is presently filled does have access to confidential personnel and policy matters. The position must be excluded for reasons of confidentiality. There is no reason to extend the exclusion to the second customer service representative. Some question was raised as to whether or not this position might be eliminated in the future. So long as the position exists, it is properly the subject of this order.

A bargaining unit appropriate for the Littleton Water and Light Department is an eleven member bargaining unit consisting of the seven job titles requested by petition. There is a community of interest among those working together for this public employer in that many of the conditions of their employment are similar and they work as a team at providing utility services. Excepted from membership is one customer service representative, some of whose duties to the employer are confidential in nature and in conflict with membership in the bargaining unit.

So ordered.  
Signed this 22nd day of February, 1994.

  
Gail Morrison, Hearing Officer